

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JOHN WADE BURTON,

Defendant.

4:21CR3020

MOTION FOR A
PROTECTIVE ORDER

Pursuant to [Fed. R. Crim. P. 16\(d\)](#) and [18 U.S.C. § 3771\(a\)](#), the United States of America, by and through the undersigned Assistant United States Attorney for the District of Nebraska, moves for the entry of a protective order regarding the dissemination of certain discovery and offense materials, and in support thereof states as follows:

Defendant has been charged with possession of, and intent to access, child pornography. In accordance with this Court's Discovery Order and pursuant with [Fed. R. Crim. P. 16](#), the Government has produced discovery material to the defendant's counsel. Regarding the computer forensics and child pornography evidence, the Government has provided the Defense the ability to independently review these materials with Government agents present. The Defendant has now hired an expert, Mr. Shawn Kasal, Digital Forensic Expert with 12 Points Technologies, to do an independent forensic examination of the entirety of Defendant's electronics devices. Counsel for the Government has been informed that Mr. Kasal will do a complete download of the devices and then redact the child pornography during his review. Due to the sensitive nature of these items, especially in light of the potential ability for minor victims to be identified through this discovery, the Government is asking for a protective order regarding the devices and the entirety of the forensic download.

The Court's authority to issue such an order is well established. Specifically, Rule 16(d)(1) permits courts to enter protective orders that deny, restrict, or defer discovery or inspection, or grant other appropriate relief for good cause. Rule 49.1(e) provides authority to issue protective orders concerning matters of privacy and personal information. *Id.* Indeed, "[a] trial court can and should, where appropriate, place a defendant and his counsel under enforceable orders against unwarranted disclosure of the materials which they may be entitled to inspect." *Alderman v. United States*, 394 U.S. 165, 185 (1969).

Accordingly, the Government requests this Court limit the disclosure of these items to only the attorneys representing the Defendant, their regular staff, and any experts and investigators the defense may hire for this litigation, to include defense expert Mr. Shawn Kasal and his staff. The Government recognizes that Defense counsel will need to review the discovery materials with the Defendant in order to perform their duties. The requested protective order will allow defense counsel to review the discovery materials with the Defendant, but which would prohibit the Defendant from retaining a copy of the discovery materials, and which would prohibit defense counsel from disseminating copies to anyone outside of their office or their staff or experts, without first obtaining the Court's permission to do so. This protective order would additionally request that these discovery materials provided to defense counsel shall be placed in secure files with restricted access following the conclusion of the case and shall be returned to the Government when defense counsel determines it is appropriate and the materials are no longer needed by the defense.

The undersigned has conferred with counsel for the Defendant who has responded that they are unopposed to the Government's motion and entry of a protective order.

WHEREFORE the United States respectfully requests that the Court enter a protective order regarding the discovery materials in this case.

UNITED STATES OF AMERICA, Plaintiff

STEVEN A. RUSSELL
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By:



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